



PTO/SB/21 (09-04)

Approved for use through 07/31/2006. OMB 0651-0031  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

## TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

4

|                        |                    |
|------------------------|--------------------|
| Application Number     | 09/672,435         |
| Filing Date            | 09/28/2000         |
| First Named Inventor   | John K. Gerken III |
| Art Unit               | 3627               |
| Examiner Name          | James S. McClellan |
| Attorney Docket Number |                    |
| RAL920000034US1        |                    |

### ENCLOSURES (Check all that apply)

|   |   |   |
|---|---|---|
| <input type="checkbox"/> Fee Transmittal Form                             | <input type="checkbox"/> Drawing(s)                                       | <input type="checkbox"/> After Allowance Communication to TC                            |
| <input type="checkbox"/> Fee Attached                                     | <input type="checkbox"/> Licensing-related Papers                         | <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences     |
| <input type="checkbox"/> Amendment/Reply                                  | <input type="checkbox"/> Petition   | <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) |
| <input type="checkbox"/> After Final                                      | <input type="checkbox"/> Petition to Convert to a Provisional Application | <input type="checkbox"/> Proprietary Information  |
| <input type="checkbox"/> Affidavits/declaration(s)                        | <input type="checkbox"/> Power of Attorney, Revocation                    | <input type="checkbox"/> Status Letter  |
| <input type="checkbox"/> Extension of Time Request                        | <input type="checkbox"/> Change of Correspondence Address                 | <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):         |
| <input type="checkbox"/> Express Abandonment Request                      | <input type="checkbox"/> Terminal Disclaimer                              | <input type="checkbox"/> Response to Notice of Non-Compliance; Return Postcard          |
| <input type="checkbox"/> Information Disclosure Statement                 | <input type="checkbox"/> Request for Refund                               |   |
| <input type="checkbox"/> Certified Copy of Priority Document(s)           | <input type="checkbox"/> CD, Number of CD(s) _____                        |   |
| <input type="checkbox"/> Reply to Missing Parts/ Incomplete Application   | <input type="checkbox"/> Landscape Table on CD                            |   |
| <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53 |   |   |
| <b>Remarks</b>  |   |   |

### SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

|              |                                 |          |        |
|--------------|---------------------------------|----------|--------|
| Firm Name    | Winstead Sechrest & Minick P.C. |          |        |
| Signature    |                                 |          |        |
| Printed name | Robert A. Voigt, Jr.            |          |        |
| Date         | 08/05/2005                      | Reg. No. | 47,159 |

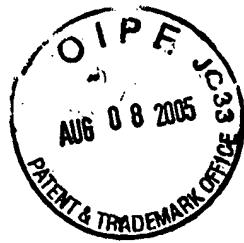
### CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop Appeal Brief-Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

|                       |              |      |            |
|-----------------------|--------------|------|------------|
| Signature             |              |      |            |
| Typed or printed name | Toni Stanley | Date | 08/05/2005 |

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

3622  
AC/CR

- 1 -

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: : Before the Examiner:  
 Gerken et al. : James S. McClellan

Serial No.: 09/672,435 : Group Art Unit: 3627

Filed: September 28, 2000 :  
 Title: CUSTOMER CHECKOUT  
 ACCELERATOR : IBM Corporation  
 : P.O. Box 12915  
 : Dept. 9CCA, Bldg. 002  
 : Research Triangle Park, NC 27709

**RESPONSE TO NOTICE OF NON-COMPLIANCE**

Commissioner for Patents  
 P.O. Box 1450  
 Alexandria, VA 22313-1450

Dear Sir:

In response to the Notice of Non-Compliance having a mailing date of July 29, 2005, with a time for response set to expire on August 29, 2005. Appellants respond as follows:

**CERTIFICATION UNDER 37 C.F.R. §1.8**

I hereby certify that this correspondence (along with any item referred to as being enclosed herewith) is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on August 2, 2005.

Toni Stanley  
 Signature

Toni Stanley  
(Printed name of person certifying)

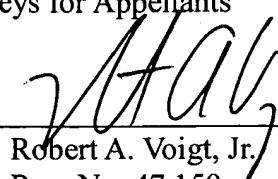
The Examiner asserts that Appellants' Second Supplemental Appeal Brief does not contain an evidence appendix and a related proceedings appendix. Appellants have amended the Second Supplemental Appeal Brief (referred to as "Second Supplemental Amended Appeal Brief) by including these appendices. Accordingly, Appellants respectfully assert that the Second Supplemental Amended Appeal Brief is in compliance and respectfully request the Examiner to withdraw the notice of non-compliance.

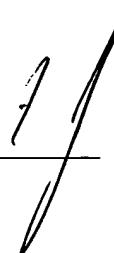
Respectfully submitted,

WINSTEAD SECHREST & MINICK P.C.

Attorneys for Appellants

By:

  
Robert A. Voigt, Jr.  
Reg. No. 47,159  
Kelly K. Kordzik  
Reg. No. 36,571



P.O. Box 50784  
Dallas, Texas 75201  
(512)370-2832

287499v.1